

Remarks / Arguments

Before this amendment, claims 1, 6, 9, 11-13, and 21-34 were pending. By this amendment, claims 1, 6, 9, 11-13, and 21-34 have been cancelled, without prejudice, and new claims 35-52 have been added. Therefore, claims 35-52 are currently pending in this application.

New claim 35 is directed to an aeroponic or hydroponic growing system comprising: an aeroponic or hydroponic garden including an aperture; and a seed cartridge comprising: a rigid, cup-shaped frame adapted to fit in said aperture; a hydrophilic cellular substrate located in said cup-shaped frame; and at least one seed in contact with said hydrophilic cellular substrate. Support for claim 35 can be found, for example, in as-filed claim 1 and in the specification on page 5, line 22 and line 26 and on page 11, lines 9-10.

Claim 36 is directed to the rigid, cup-shaped frame comprising: an upper portion; and a lower portion; wherein said lower portion of said rigid cup-shaped frame is adapted to fit in said aperture, for which support can be found, for example, in the specification on page 9, lines 1-6.

Claim 37 is directed to the hydrophilic cellular substrate comprising a horticultural foam, for which support can be found, for example, in the specification on page 8, lines 12-14. Claim 38 is directed to the seed adhered to the hydrophilic cellular substrate, for which support can be found, for example, in as-filed claim 4. Claim 39 is directed to the rigid, cup-shaped frame comprising a plastic material, for which support can be found, for example, in the specification on page 11, lines 1-2. Claim 40 is directed to the system wherein the cartridge further comprises a seal, for which support can be found, for example, in as-filed claim 10. Claim 41 is directed to the seed cartridge being storable without germination of said seed until a desired time when aqueous solution is applied, for which support can be found, for example, in the specification on page 9, lines 16-18. Claim 42 is directed to the hydrophilic cellular substrate being dry, support for which can be found, for example, in the specification on page 8, line 11. Claim 43 is directed to the rigid, cup-shaped frame being porous to aqueous solution and to a root growing from a plant germinated from said seed, support for which can be found, for example, in as-filed claim 1 and in the specification on page 6, lines 4-11. Claim 44 is directed to the seal being a paper label, support for which can be found, for example, in the specification on page 12, lines 11 and 26. Claim 45 is directed to the seal selected from the group consisting

of: opaque, transparent, and translucent, support for which can be found, for example, in as-filed claims 11-13.

Claim 46 is directed to the hydrophilic cellular substrate comprising a synthetic polymer, support for which can be found, for example, in as-filed claim 6. Claim 47 is directed to the hydrophilic cellular substrate comprising urethane pre-polymer reacted with one or more materials selected from the group consisting of: peat, bark and mixtures of peat and bark, support for which can be found, for example, in the specification on page 8, lines 2-4. Claim 48 is directed to the seed cartridge further comprising a seed-bearing substrate wherein said seed is in contact with said seed-bearing substrate and said seed-bearing substrate is in contact with said hydrophilic cellular substrate, support for which can be found, for example, in the specification on page 7, lines 1-20. Claim 49 is directed to the cartridge is adapted for transporting, supporting, and germinating said seed and for holding a plant germinated from said seed in said aeroponic or hydroponic garden throughout the life of said plant, support for which can be found, for example, in the specification on page 5, line 3 and lines 22-24. Claim 50 is directed to the cartridge is adapted for removal of said cartridge and a plant germinated from said seed from said aeroponic or hydroponic garden for transplanting, support for which can be found, for example, in the specification on page 9, lines 5-6.

Claim 51 is directed to a modular seed cartridge for an aeroponic or hydroponic garden, said modular seed cartridge comprising: a rigid, cup-shaped tapered frame, wherein said frame comprises an upper portion and a lower portion, wherein said lower portion is adapted to fit in an aperture in said aeroponic or hydroponic garden, wherein said upper portion comprises a lip, wherein said frame fits in said aperture to said lip; a hydrophilic cellular substrate located in said cup-shaped frame; and at least one seed in contact with said hydrophilic cellular substrate; wherein said frame fits in said aperture to said lip to provide stability for supporting a plant germinated from said seed in said aperture in said aeroponic or hydroponic garden and wherein said taper provides easier transplanting and less damage to one or more roots of a plant germinated from said seed, when removing said plant from said hydroponic garden. Support can be found, for example, in as-filed claim 1 and in the specification on page 5, line 22-26; on page 9, lines 1-5, and on page 11, lines 9-10.

Claim 52 is directed to a modular seed cartridge for an aeroponic or hydroponic garden, said modular seed cartridge comprising: a rigid, porous, cup-shaped tapered frame comprising

a lip, wherein said frame is adapted to fit in an aperture in said aeroponic or hydroponic garden to said lip; a hydrophilic cellular substrate located in said cup-shaped frame; and at least one seed in contact with said hydrophilic cellular substrate; wherein said frame fits in said aperture up to said lip to provide stability for supporting a plant germinated from said seed in said aperture in said aeroponic or hydroponic garden; wherein said taper provides easier transplanting and less damage to one or more roots of a plant germinated from said seed, when removing said plant from said hydroponic garden; wherein said frame comprises a plastic material; wherein said hydrophilic cellular substrate comprises a material selected from the group consisting of: horticultural foam, synthetic polymer, and urethane pre-polymer reacted with peat; wherein said seed is adhered to said hydrophilic cellular substrate; wherein said hydrophilic cellular substrate is dry and storable without germination of said seed until a desired time when said aqueous solution is applied; wherein said frame is porous to aqueous solution and is porous to a root growing from a plant germinated from said seed; wherein said seed cartridge further comprises a paper label seal in contact with said lip; and wherein said cartridge is useful for transporting, supporting, and germinating said seed and for holding a plant germinated from said seed in said aeroponic or hydroponic garden throughout the life of said plant. Support can be found, for example, in as-filed claims 1, 4, 6, and 10 and in the specification on page 5, lines 3, 22 – 26; page 6, lines 4-11; page 8, lines 2-3 and 11-14; page 9, lines 1-6 and 16-18; page 11, lines 1-2 and 9-10; and page 12, lines 11 and 26.

The amendments to the claims do not add new matter.

Election / Restriction

Previously submitted claims 33-34 that were withdrawn have been cancelled.

Newly submitted claims 35-52 are directed to the seed support medium cartridge of this invention, together with the hydroponic or aeroponic garden in which it is designed to function, hence these claims are directed to the elected invention.

Double Patenting

Claims 1, 6, 9, 11-13, and 21-32 were provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 256-275 of copending Application No.

11/112,269. Claims 1, 6, 9, 11-13, and 21-32 have been cancelled, without prejudice, thereby obviating this rejection. This response also includes a Terminal Disclaimer and small entity fee, further obviating this rejection. Applicant respectfully traverses these rejections and requests reconsideration.

Claim Objections

Claim 22 was objected to under 37 CFR 1.75(c) as being of improper dependent form. Claim 22 has been cancelled, without prejudice, thereby obviating this rejection. Applicant respectfully traverses this rejection and requests reconsideration.

Rejections Under 35 U.S.C. § 103(a)

Claims 1, 6, 9, 22, 24-30, and 32 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,812,619 to Wood et al. in view of U.S. Patent Pub. No. US 2002/0104263 to Chang. Claims 1, 6, 9, 22, 24-30, and 32 have been cancelled, without prejudice, thereby obviating these rejections. Solely to expedite prosecution of this application, the Applicant respectfully submits that no reasonable combination of Wood and Chang discloses or suggests the invention of new claims 35-52. New independent claim 35 is directed to an aeroponic or hydroponic garden in combination with a seed cartridge for use in such a garden. New independent claims 51 and 52 are directed to seed cartridges having features making them suitable for use in aeroponic or hydroponic gardens. Chang, in contrast, is directed to a hanging flower pot containing traditional soil-based growing mediums. Wood is directed to a foam growing medium. However, no combination of these references discloses or suggests a modular seed cartridge for use in an aeroponic or hydroponic garden. Therefore, the Applicant respectfully traverses this rejection to the extent it is applied to new claims 35-52.

Claims 11-13, 21, 23, and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,812,619 to Wood et al. in view of U.S. Patent Pub. No. US 2002/0104263 to Chang and further in view of U.S. Patent No. 4,124,953 to Patton. Claims 11-13, 21, 23, and 31 have been cancelled, without prejudice, thereby obviating these rejections.

Solely to expedite prosecution of this application, the Applicant respectfully submits that no reasonable combination of Wood, Chang, and Patton discloses or suggests each and every element of new claims 35-52. As demonstrated in the previous paragraph, new claims 35-52

are patentable over any reasonable combination of Wood and Chang. Patton, which is directed to a traditional flower pot containing peat moss as the growing medium, does not remedy the deficiencies of Wood and Chang. Therefore, the Applicant respectfully traverses this rejection to the extent it is applied to new claims 35-52.

Further Arguments

Solely to expedite prosecution of this application, the Applicant submits the following additional arguments in support of new claims 35-52.

Nash et al. (GB2216378) was cited in a previous Office Action. The Applicant respectfully submits that Nash et al. does not teach every element of new claims 35-52. For example, Nash et al. does not disclose or suggest "an aeroponic or hydroponic garden including an aperture" in combination with "a seed cartridge comprising . . . a rigid, cup-shaped frame adapted to fit in said aperture," as recited by independent claim 35. Rather, Nash is completely devoid of any teaching or suggestion of an aeroponic or hydroponic garden, or of a cartridge for such a garden. Likewise, Nash et al. fails to disclose or suggest a frame comprising a "lower portion [] adapted to fit in an aperture in said aeroponic or hydroponic garden" and an "upper portion compris[ing] a lip [that] fits in said aperture to said lip," as recited by independent claim 51. Nash et al. further fails to disclose or suggest the analogous features of independent claim 52. Obonai et al. (US 6,615,539) was also cited in a previous action in combination with Nash et al. The Applicant respectfully submits that Obonai et al. does not remedy the deficiencies of Nash et al. In particular, Obonai does not disclose or suggest a hydroponic or aeroponic garden, nor does it disclose or suggest a seed cartridge adapted for use with such a garden.

U.S. Patent No. 3,961,444 to Skaife was cited in a previous Office Action. Skaife does not teach or suggest every element of new claims 35-52. Skaife is directed to a traditional flower pot containing peat moss as the growing medium. Accordingly, Skaife does not disclose or suggest a hydroponic or aeroponic garden, or a seed cartridge adapted for use with such a garden. U.S. Patent No. 4,124,953 to Patton was also cited in a previous Office Action. Patton also does not teach or suggest every element of new claims 35-52. Similar to Skaife, Patton is directed to a traditional flower pot containing peat moss as the growing medium. Accordingly, Patton does not disclose or suggest a hydroponic or aeroponic garden, or a seed cartridge adapted for use with such a garden.

U.S. Patent No. 4,790,105 to Wareing was also cited in a previous Office Action in combination with one or more references. Wareing does not disclose or suggest a hydroponic or aeroponic garden, nor does it disclose or suggest a seed cartridge for use with such a garden. Instead, Wareing is directed to a conventional soil-based garden. Therefore, Wareing does not disclose or suggest every element of new claims 35-52, whether considered alone or in combination with the other references of record.

In summary, none of the prior art of record discloses or suggests every element of new claims 35-52. In addition, no reasonable combination of the cited prior art teaches every element of new claims 35-52. As a result, the invention of new claims 35-52 would not have been obvious to one of ordinary skill in the art at the time the invention was made.

Conclusion

This application appears to be in condition for allowance, therefore passage to issuance is respectfully requested. Before this amendment, this application contained 3 independent claims and 17 dependent claims, and after this amendment, this application contains 3 independent claims and 15 dependent claims, therefore it is believed that no claim fees are due. Applicant believes that \$510 is due for the fee set forth in 1.17(a)(3) for three months extension of time. Applicant believes that \$65 is due for the fee set forth in 37 CFR 1.20(d) for the Terminal Disclaimer. Therefore, this Response and Amendment is accompanied by a Credit Card Payment Form (PTO-2038) in the amount of \$575.

Respectfully submitted,



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